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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,955	05/22/2006	Anthony Wills	133088.00801(P37233US)	1670
35151	7590	10/09/2007	EXAMINER	
Pepper Hamilton LLP			REIS, TRAVIS M	
500 Grant Street			ART UNIT	
One Mellon Bank Center, 50th Floor			PAPER NUMBER	
Pittsburgh, PA 15219-2502			2859	
			MAIL DATE	DELIVERY MODE
			10/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,955	Applicant(s) WILLS, ANTHONY	
	Examiner Travis M. Reis	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 13-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20060413, 20061110</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 1, 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 13, 15-17, 19, & 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Perlman et al. (U.S. Patent 4526752).

Perlman discloses a medical device (Figure 1) and method of informing of the status of said medical device sealed in gas-tight packaging (12), wherein the medical device comprises a latent dye marking (13) irremovably adhered to the surface of the device comprising oxidisable dye (col. 1 line 37) which becomes visible after a predetermined time following exposure of the device to air (col. 1 line 65-67) and further comprising a reducing agent (col. 1 line 42), wherein prior to the opening of the packaging the marking remains invisible and undeveloped and wherein after a period of time from the opening of the packaging the marking becomes visible to yield a warning message in the visible spectrum (col. 1 lines 59-64).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14 & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perlman et al. in view of Sherman (U.S. Patent 4987849).

Perlman et al. discloses all of the instant claimed invention as stated above in the rejection of claims 13, 15-17, 19, & 20, but does not disclose the marking is obscured by an

opaque layer prior to exposure of the device to air, wherein the opaque layer changes to clear following said exposure.

Sherman discloses a signal device (2) which includes markings (4) hidden by opaque layers (3) prior to exposure of the device to air (Figure 1), wherein the opaque layers change to clear following said exposure over time (Figures 2 -5) (col. 2 lines 62-66) to inform the user of a period of time (col. 1 lines 43-49). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the opaque layer means disclosed by Sherman to the device disclosed by Perlman et al. in order to additionally indicate a period of time the device has been exposed.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Friedman et al. discloses tamper-evident packaging (U.S. Patent 4972953). Singleton discloses a color-indicating tamper proof seal (U.S. Patent 4986429). Patel discloses a moving boundary device & a color change device (U.S. Patents 5045283 & 5053339). Hustad discloses a package with tamper evident message (U.S. Patent 5064664). Krumhar et al. discloses a visual indicator system (U.S. Patent 5096813). Heilman et al. discloses a closure with irreversible color change system (U.S. Patent 5474194). Cannelongo et al. discloses a temperature sensitive device for containers (U.S. Patent 5779364). Ahvenainen et al. discloses a package for decayable foodstuffs (U.S. Patent 6325974). Andersen discloses a sensor (U.S. Patent App. Pub. 20050078557). Koivukunnas et al. discloses a printed TTI indicator (U.S. Patent App. Pub. 20060130734)

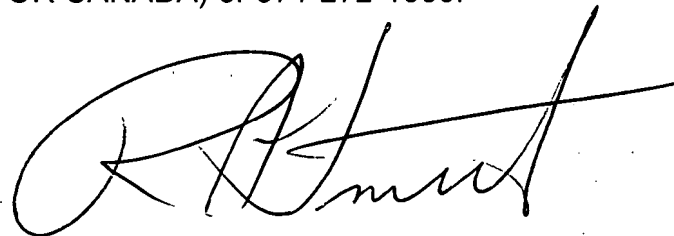
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Travis M Reis
Examiner
Art Unit 2859

tmr
September 28, 2007

A handwritten signature in black ink, appearing to read 'Richard Smith', with a large, sweeping flourish extending from the end of the signature.

RICHARD SMITH
PRIMARY EXAMINER